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Current Topics.

The Slater Case.

RECENT DEVELOPMENTS in the case of OSCAR SLATER have suddenly taken a dramatic turn. The decision to order his release was immediately put into operation. Then the Secretary of State for Scotland intimated in the House of Commons that he would introduce legislation to enable the new Scottish Court of Criminal Appeal to review all the circumstances of the trial and conviction. The next day this Bill was introduced and read a first time. The Bill seems to be framed to amend s. 16 of the Court of Criminal Appeal (Scotland) Act, 1926, which, as it stands, only applies to persons convicted after 31st October, 1926, by enabling the Secretary of State to refer under s. 16 cases where a petition for the exercise of the prerogative of mercy has been received, and it is thought that there are circumstances calling for further investigation. The course taken by the Government in this case cannot but receive general approval. A case of extreme difficulty and grave doubt will be thoroughly re-investigated in the light of new evidence.

Professional Privilege for Doctors.

IN A CASE last summer at Birmingham Assizes a doctor was asked in cross-examination a direct question as to his patient's disease, and, on his objection, was told that he had no professional privilege in respect of the confidence reposed in him, and must answer. That the law was correctly laid down is clear from various old authorities, and it is well summed up by JESSEL, M.R., in *Wheeler* v. *Le Marchant*, 1881, 17 C.D. 675, at p. 681. A fairly recent instance will be remembered in the trial of ARMSTRONG the poisoner for the murder of his wife, when the prisoner's doctor was asked, and, under protest, answered a similar question. In *Greenough* v. *Gaskell*, 1833, 1 My. & K. 98, Lord BROUGHAM remarked (p. 103) that he had difficulty in discovering why privilege given to legal should be withheld from medical advisers. There is now a proposal that a short Bill should be introduced into Parliament to give doctors in particular cases privilege from cross-examination in respect of the irpatients' confidences, and the desirability of the change will no doubt be thoroughly discussed. The question is nearly always raised in respect of venereal disease, and, having regard to the extreme value of the earliest possible treatment in such cases, the argument that the patient should have no reasonable hesitation in consulting a doctor is of great weight. And if he knows that his doctor is always liable to disclose his disease in open court, it is certainly not likely to send him to the surgery more quickly. Those who promote the Bill, however, should be careful to see that the privilege, if given, is not stultified by liability to adverse comment at the Bar if exercised. The exercise of the professional privilege of a solicitor must not even receive adverse comment from the judge himself: see *Wentworth* v. *Lloyd*, 1864, 10 H.L.C. 589, in which Lord CHELMSFORD strongly criticised the then Master of the Rolls for making such comment. The doctor's professional privilege, if given, should be exercised as a matter of course, and the jury should not be allowed to form an adverse opinion against the patient by reason of its exercise. Indeed, it may be argued that a doctor should not waive it even at the request of the patient, for, if this became the practice, those patients who did not make such request, would naturally be regarded as having good reason not to do so.

Detinue in Police Courts.

THERE IS a good deal of misapprehension as to the effect and value of s. 40 of the Metropolitan Police Courts Act, 1839, which gives magistrates a power to order delivery of goods unlawfully detained. The magistrate has no power to determine the ownership of the goods, and if they are not delivered up the only result is a forfeiture by the detainer to the party aggrieved, of the value of the goods. The jurisdiction is limited to orders in respect of goods not exceeding £15 in value, and not being deeds, muniments or papers relating to any property of greater value than £15. There has been some difference of opinion whether the forfeiture amounts to a penalty enforceable by imprisonment in default of distress, or whether it must be recovered as a civil debt under the Summary Jurisdiction Acts, but now the general practice is to treat the sum as a civil debt. Recently, in one of the metropolitan courts, an attempt was made to recover a quantity of correspondence alleged to be wrongfully in the possession of an employee of a limited company who had left or been dismissed from the company's service. There is no doubt that letters would be goods within the meaning of the section. This is sufficiently indicated by deeds and papers being spoken of as a class of goods within it, but the case broke down on the question of value. The claimant said that it was impossible to put a value upon the letters. Their value in one sense, was trifling, at the outside a few shillings, but their value to his company could not be put into terms of money. This inability to show that the court had jurisdiction was necessarily fatal, but even if the case had proceeded on the value of the letters, as used paper, which was not only under the £15, the limit of jurisdiction, but could probably only be determined in terms of pence, the result would have been quite useless to the complainant company, for, obviously, a defendant so determined to keep the "goods" that he had refused applications to give them up, and had gone to the expense of legal assistance to defend himself in court, would

have disobeyed the order and willingly paid the small mulct to which he would have been liable. He could, of course, have been ordered to pay costs, but that would still have left the coveted documents in his hands.

Reducing the Charge.

THE JUDGES are frequently protesting against the misuse by justices of their powers of trying indictable offences summarily, but, where they have clear jurisdiction to try their action, however inadvisable, justices cannot be successfully attacked. Where they go wrong on occasion in law, is in altering the charge to give themselves jurisdiction, and, in doing this, they lay themselves open, not only to adverse criticism, but to reversal on appeal. At the last Derbyshire Assizes Mr. Justice SWIFT animadverted on a case where justices had "reduced" a charge of indecent assault to one of an aggravated assault. This, if there were evidence of indecency, was clearly contrary to the decided cases, and the mere consent of the accused would not cure the irregularity. If the prosecutor felt aggrieved (usually a prosecutor in such cases does not object, and if he does, is not prepared to face the expense of an appeal), he could go to the High Court either by way of case stated or on an application for *certiorari* on the ground of want of jurisdiction. It would be no answer to say that the justices had jurisdiction to convict of an aggravated assault. They had, if the judge was correctly informed, convicted a man for indecent assault and called it something else. In the days before the Criminal Justice Act, 1925, abolished value as a criterion of jurisdiction in cases of larceny, there were some curious devices adopted by zealous magistrates. A man stole twenty chests of tea, all at one and the same time, and a magistrate convicted him of stealing one only, the value of one being less than £20, the then limit for trial of this offence summarily by consent. This is reminiscent of the jury who, to save a life when larceny in a dwelling-house over forty shillings meant hanging, solemnly found that the accused had stolen a £10 Bank of England note value thirty-nine shillings.

The Court and Undefended Prisoners.

WHATEVER MAY have been the case in the old unenlightened days, English criminal courts have long enjoyed the well-merited reputation of being scrupulously fair to prisoners. If a prisoner has no means to brief counsel to appear for him, the court will, in many instances, request a member of the Bar to conduct the defence; and when, for any reason, the prisoner is not represented professionally, the court itself will take every means to ensure that his interests are not thereby prejudiced. Without laying down an absolute obligation on the trial judge to assist an undefended prisoner in putting questions by way of cross-examination, the Court of Criminal Appeal in *Rex* v. *Barker*, 20 Cr. App. R. 70, recognised some duty in this matter, for the court in that case commented on the fact that when the accused was invited to cross-examine the witnesses no help was given him in formulating questions. By calling the attention of trial judges to this duty, the Court of Criminal Appeal was exemplifying once again the spirit of fairness which characterises all the proceedings of our criminal judicatories.

The "Dictionary of National Biography" on Lawyers.

IF THE allocation of space in the new volume of the "Dictionary of National Biography" can be taken as the ultimate judgment as to the position in the roll of fame of those notabilities of whom memoirs are given, it must sorrowfully be recognised that lawyers, even the greatest, occupy a very inferior place in the hierarchy of distinction. Statesmen and soldiers are given a decided pre-eminence in the pages of the new volume. No fewer than thirty-three columns are devoted to the career of JOSEPH CHAMBERLAIN, which seems a fairly liberal allowance; thirteen columns are given to LOUIS BOTHA; eleven and a half to Lord ROBERTS; and ten to Lord WOLSELEY. How do the great lawyers fare in comparison? Lord HALSBURY is first with six columns—less than a fifth of the allowance to CHAMBERLAIN; Sir EDWARD FRY comes next with five columns; Lord MACNAGHTEN, Lord LINDLEY, Lord MOULTON and Lord PARKER are each allowed about four; Lord COZENS-HARDY, two; Lord ALVERSTONE, one and a half; and Lord SWINFEN, one. To be sure there is nothing spectacular about the career of most judges. Spending their lives in deciding the disputes of other people is an occupation which does not greatly touch the public imagination, and so the world's estimation of years spent laboriously in mastering and expounding "the lawless science of our law" is expressed biographically in a highly compressed form.

Sir Herbert Stephen on Lord Halsbury.

WITHIN THE space allowed him, Sir HERBERT STEPHEN'S sketch of the career of HARDINGE STANLEY GIFFORD, first Earl of Halsbury, is admirable in every way, bringing out, as it does, his inextinguishable courage, both in the courts and in Parliament, and his command over the tribunals in which he presided. Three times Lord Chancellor, covering a period of seventeen years—longer than any previous occupant of the Woolsack save HARDWICKE and ELDON—he left his mark in many notable judgments delivered in the House of Lords. Some of them, it is true, have not commanded universal assent. For example, his judgment in the great Free Church of Scotland case was much canvassed, one northern clerical critic declaring that it showed a complete lack of appreciation of the difference between a trade union and a body of Christians. On one occasion, too, he startled Lincoln's Inn by laying it down that a resulting trust is to be looked for on the face of the document creating it, a pronouncement which only showed that Lord Chancellors are human after all, and, like HOMER, occasionally nod. But, apart from such slips, there was about all that HALSBURY said and did, from the time when, as a young barrister, he had chambers in Chancery-lane—a thoroughfare long deserted professionally by members of the Bar—till the time when, as Lord Chancellor, he planned and launched the great undertaking which bears his name, there was a vigour and persistency in arduous work which were the admiration and envy of all who saw him.

Third Party Risks.

THE CASE of *Re Harrington Motor Co.*, in the Court of Appeal, reported in *The Times* of 12th inst., indicates the need of a short Act of Parliament to remedy a hardship. The facts were simple. One WALTER CHAPLIN, being injured by a lorry belonging to the company, sued them and was awarded £324 damages and costs. The company, which was insured against third party risks, meanwhile went into liquidation. The insurers paid the liquidator in full in respect of the claim, as they were bound to do under their contract with the company. CHAPLIN applied to the liquidator for the money, receiving the answer that it was part of the assets of the company, available for the creditors. CHAPLIN applied in the liquidation, and EVE, J., decided against him (*ante*, p. 652). The Court of Appeal has now unanimously confirmed his decision. POLLOCK, M.R., in giving his judgment, said that it was quite clear that most people would think, as a matter of commonsense, that CHAPLIN ought to have the money. Nevertheless, after a compliment to the "resourceful, able, and helpful argument" of the plaintiff's counsel (that ominous compliment which almost invariably precedes an adverse judgment) he decided against him on the ground that the provisions in favour of creditors in winding up a company (and the same would apply to a bankruptcy) were clearly against the claim. And this view of the law was fortified by s. 7 (1) of the Workmen's Compensation Act, 1925, expressly providing otherwise in case of the bankruptcy or compulsory liquidation of an employer insured against risks under the Act. This provision also gives the injured workman direct rights against the insurers. It would have been superfluous if the legal argument on behalf of the plaintiff had been well founded.

The law was no doubt correctly laid down, but it here gives rise to injustice. The contract of insurance is in respect of claims for injuries arising in a definite manner, and the general creditors of a car owner or driver have no moral rights at all to money paid under it. And from the public point of view it renders insurance valueless, because damages are recoverable directly from a solvent owner, so it is no concern to the injured party whether he is insured or not. But if the insured party is insolvent, it ought to protect one injured by him. To give the general creditors a share of the insurance money is anomalous—and some impecunious person may presently be asking his chief creditor how much he, the creditor, will give the debtor, to run down a millionaire.

Direction as to Costs in Non-Jury Actions.

THE DECISION of the House of Lords in *Campbell & Co. Ltd.* v. *Pollak*, 43 T.L.R. 787, would appear once for all to have closed the ever widening breach that was hitherto being made in the principle contained in Ord. 65, r. 1, that the exercise of his discretion by a judge sitting without a jury, in refusing a successful party costs, is not to be interfered with.

The principle that governs such cases was laid down in the following terms by the Lord Chancellor:—"A successful defendant in a non-jury case has no doubt in the absence of special circumstances a reasonable expectation of obtaining an order for the payment of his costs by the plaintiff; but he has no right to costs unless and until the court awards them to him, and the court has an absolute and unfettered discretion to award or not to award them. This discretion, like any other discretion, must of course, be exercised judicially, and the judge ought not to exercise it against the successful party except for some reason connected with the case. Thus if—to put a hypothesis which in our courts would never in fact be realised—a judge were to refuse to give a party his costs on the ground of some misconduct wholly unconnected with the cause of action or of some prejudice due to his race or religion or (to quote a familiar illustration) to the colour of his hair, then a Court of Appeal might well feel itself compelled to intervene. But when a judge, deliberately intending to exercise his discretionary powers, has acted on facts connected with one leading up to the litigation which have been proved before him, or which he has himself observed during the progress of the case, then it seems to me that a Court of Appeal, although it may deem his reasons insufficient and may disagree with his conclusions, is prohibited by the statute from entertaining an appeal from it."

Such cases, therefore, as *King* v. *Gillard*, 1905, 2 Ch. 7; *Edmund* v. *Martell*, 24 T.L.R. 25; *Ritter* v. *Godfrey*, 1920, 2 K.B. 47, can no longer be regarded as sound, and must be taken, as far as the question of costs are concerned, to have been definitely overruled.

It may be as well to note, however, that the House of Lords, in *Campbell* v. *Pollak*, expressly limited their decision to the trial of non-jury actions, so that the principle of that case will not apply where a tribunal has awarded costs without jurisdiction to do so, nor where the judge has taken the mistaken view that he has no discretion as to costs, nor where the action has been tried by a jury, nor possibly where the trial has been in the county court or under the Arbitration Act, 1889.

Forfeiture on Marriage with "a Blood Relation."

Re Lanyon, 71 SOL. J., p. 865, raised the question of the validity of a provision against marriage with a *blood relation*. A testator gave his residuary estate in trust for his son for life, and after his death, for his children, "provided he does not marry a relation by blood," and in the event of the son leaving no child who attained twenty-one, or of his "marrying a blood relation," then upon certain other trusts. It was argued that the condition was void for uncertainty, but the court held that the provision was clear and applied to the case of a son marrying with anyone having a common ancestor. The fact that much difficulty might be experienced in ascertaining whether there was such a common ancestor was not a ground for declaring the condition void for uncertainty. The learned judge decided, however, that the condition was void upon grounds of public policy, being in unreasonable restraint of marriage; since, whoever the son might desire to marry, he might feel apprehension lest subsequently some remote common ancestor might be discovered. "The son," said RUSSELL, J., "could only be certain that he was marrying a blood relation, he could never be certain that he was not." Most people, however, might take the view that such a clause would have no practical deterrent effect beyond that of preventing marriage with someone *known* to be a relation.

Statements "Made at the Time."

THE DRIVER of a public carriage in the employ of a local authority was recently summoned for failing to stop his vehicle when necessary to avoid impending danger. A policeman, who took particulars of the accident out of which the proceedings arose, said that the defendant had declined to make a statement to him about the cause of the occurrence. The defendant, asked in the witness box to explain why he had made no statement, said that he and his fellow drivers had received general instructions from their superiors to make statements to no-one when they were involved in any mishap. This policy has no doubt been adopted to save the local authority in question from becoming unnecessarily involved in civil claims by the ill-considered statements of their employees. As far as making statements to unauthorised persons goes, it has much to justify it. But to prevent a prospective defendant from giving an explanation to a policeman taking particulars on the spot is to undertake a grave responsibility which may incur severe criticism in the criminal courts, where statements made at the time carry great weight—not necessarily as evidence for the prosecution, but often in support of the defence. A good defence cannot be put forward too early, as an abundance of weighty judicial opinion shows. To stop the mouth of an employee may be good tactics from the point of view of civil actions, but if he becomes the defendant in a criminal prosecution, it may on occasion considerably reduce his chances of acquittal.

Right to be Executed.

THERE ARE some wonderful legal arguments put forward at times. A few weeks ago we noticed one convicted criminal in the United States urging that he could not be executed for a capital crime till the expiry of a sentence of imprisonment for another crime. Now, another comes forward and argues that his death sentence being, without his consent, commuted to one of imprisonment for life, no one has the right to detain him in custody. After serving some years and vainly suing for a pardon he applied to a Federal Court for *habeas corpus*. His astonishing argument prevailed, and his release was ordered. The Supreme Court has happily blended law and commonsense and reversed this decision, holding that consent has nothing to do with the matter. "Supposing that PEROVICH did not accept the change, he could not have got himself hanged against the executive order. Supposing that he did accept, he could not affect the judgment to be carried out." "Just as the original punishment would be imposed without regard to the prisoner's consent and in the teeth of his will, whether he liked it or not, the public welfare, not his consent, determines what shall be done." This robust view did not apparently always prevail in this country, for "The Historical Magazine" for February, 1789, recorded that "His Majesty having granted a pardon to the female convicts in Newgate, whose sentences have been respited, on condition of being transported to the coast of New South Wales, seventeen of them, with becoming submission, accepted the royal favour, but the other six obstinately chose death, rather than a removal from their connexions." Apparently they were left for death.

Trial by Quarter Sessions

of Offences Punishable on Summary Conviction.

A POINT being much debated at the present time has arisen upon the interpretation of s. 40 of the Criminal Justice Act, 1925. That section, it will be remembered, provides a penalty "on summary conviction" of any person who is drunk while in charge, on a highway or other public place, of any mechanically propelled vehicle. The maximum penalty is four months' imprisonment, and the accused is therefore entitled to claim trial by jury under s. 17 of the Summary Jurisdiction Act, 1879; thereupon the "court of summary jurisdiction shall deal with the case in all respects as if the accused were charged with an indictable offence."

A conviction under s. 40 (1) of the Criminal Justice Act, 1925, carries with it the automatic disqualification for holding a driving licence for twelve months.

This very severe consequential disability has led to the exercise of legal ingenuity in the interests of the motorist. It is said that because a conviction at quarter sessions is not a summary conviction, it cannot therefore be followed by this statutory disqualification.

The writer is definitely against this view.

There is in the first place nothing novel about the form of s. 40 (1) of the Criminal Justice Act, 1925. Similar provisions can be found in a long range of enactments. To mention two only, the same words occur in s. 6 of the Conspiracy and Protection of Property Act, 1875, and s. 13 (4) of the Aliens Act, 1919. The consequential effect of the conviction is exactly on the same footing as the direct punishment it carries, and if the statutory disqualification does not follow, then the punishment fixed for summary conviction is also inapplicable. We must consider the position on this basis.

In practice courts of quarter sessions have always acted on the view that their powers of dealing with offenders who elect to go for trial by jury for offences in the first instance, punishable on summary conviction, are exactly the same as those of courts of summary jurisdiction trying them summarily.

Section 17 (1) of the Summary Jurisdiction Act, 1879, itself says "the offence shall as respects the person so charged be deemed to be an indictable offence." Giving effect to this provision, s. 40 (1) of the Criminal Justice Act, 1925, must be read as regards such a person, that he "shall on conviction *on indictment* be liable," etc., and in sub-s. (2), which imposes the disqualification, the person so convicted on indictment is a person convicted under sub-s. (1).

Indeed, if he be not convicted under that sub-section, it is difficult to see how he can be convicted at all, for that section creates the offence, which does not exist at common law. It may, of course, be argued that though he can be convicted he cannot be punished, a *reductio ad absurdum*. "The words of a statute must be construed so as to give a sensible meaning to them": *Curtis* v. *Stovin*, 1889, 22 Q.B.D. 512.

It may, alternatively, be said, and more sensibly, that quarter sessions may treat the offence as a misdemeanour for which no special punishment has been provided, but this is also to fall into difficulty, because it supposes that one and the same enactment creates both an indictable and a summary offence, the latter expressly, the former by implication, whereas the practice of Parliament when an offence is to be punishable in the first instance either on indictment and summarily is expressly to say so, as in the Dangerous Drugs Act, cited *post*.

If an indictable misdemeanour is really created there is no reason why an indictment should not lie right away, as it was held to do in *R.* v. *Brown*, 1895, 1 Q.B. 119; 64 L. & M.C. 1; 59 J.P. 485; 11 T.L.R. 54; and no one contends this is the position.

That case, at first blush, may seem to tell against the view taken in this article, but on close examination it will be found not to do so. There the accused was charged under s. 3 of the Betting Act, 1853. The maximum term of imprisonment which can be imposed on summary conviction exceeds three months, and he claimed to be tried by a jury. He was punished by a fine of £300, a punishment not provided by s. 3, and it was said in the judgment of the Court for Crown Cases Reserved that "the word 'penalty' used in that section has no proper application to the punishment imposed on a conviction for an indictable offence after trial by jury, on which there is a power to inflict such punishment by fine or imprisonment as justice requires, and the term 'penalty' in this case applies only to summary convictions before magistrates."

It will be found, however, that the accused was tried on indictments laid under s. 1 of the Betting Act, 1853, and not under s. 3 at all. The statute is curiously framed, a point on which Mr. Justice HAWKINS commented in his judgment, but s. 1 does undoubtedly create an indictable offence or offences. For one thing it declares a betting house to be a common nuisance and contrary to law, and it was open to the court of summary jurisdiction, without an inquiry of the accused as to his election, to commit straight away for trial for offences under s. 1.

It will thus be seen that the case is by no means in point upon a section which creates a summary offence, only to be turned into an indictable offence by the choice of the defendant.

On the other hand the case seems fatal to the view sometimes advanced that, where a statute creates an offence, and enacts a punishment on indictment and also a punishment on summary conviction, with a maximum sentence exceeding three months' imprisonment, the defendant who elects to go for trial by jury is subject to no greater punishment than could be inflicted on summary conviction. It appears that once indicted he runs the risk of the court of quarter sessions exercising the greater powers of punishment it possesses. Thus, a person charged under s. 13 of the Dangerous Drugs Act, 1920, as amended by the Dangerous Drugs Act, 1923, can, if convicted summarily, be punished by a fine not exceeding £250 or imprisonment for twelve months, or both. He has the right to go for trial by jury. If he elects to do so, he becomes liable to a fine of £1,000 or to ten years' penal servitude, or both.

Of course, even if the statutory disqualification did not inhere, the court of quarter sessions could disqualify under s. 4 of the Motor Car Act, 1903, but what is sought to escape is the disqualification as to which the court has no discretion. It is naturally hoped that leniency may be exercised.

The Case of Mrs. Munford.

IN an article recently appearing on p. 816, *ante*, and entitled "The Chaos of our Family Law," strong criticism was made of our law as to divorce and separation. The justice of that criticism has now been well illustrated by the unhappy matrimonial tangle revealed recently in the case of *Munford* v. *Munford*, commented on on p. 869, *ante*. This was a wife's petition for judicial separation on the ground of the adultery of her husband with a Miss VICTORIA EAGLETON, formerly his book-keeper. The facts were not disputed, and the evidence was that the respondent was actually living with the woman. In the circumstances, Mrs. MUNFORD was entitled to petition for divorce, but she did not do so. In granting the judicial separation prayed by her, Mr. Justice HILL observed that some day the law might be altered so that the court would be empowered to decree full divorce, even where such relief was not sought by a petitioner. As the law stood, however, he had only power to pronounce the separation "with the consequence that the husband and the woman will continue to live together, and there will be more illegitimate children born."

These words might be, and probably were, read by most people as an implied reproach on the petitioner for taking a course which doomed in advance the unfortunate children

of the union *de facto* to bastardy. The lady, however, in no mood for reproaches which she considers ill-deserved, has replied to the judge in the Press. Her rival, she points out, has stolen her husband, and even stolen her name, for she is passing under it. Had she stolen her purse, the law would have punished her. She would also have had to restore the stolen property, if in her possession. But having merely stolen another's husband, name, and happiness, she goes free, and is allowed to keep her spoil. The lawful wife cannot prevent that, but, as she points out with spirit, she objects to giving the supplanter the legal title to stolen goods.

She seems to hold her own with the judge; but the fact remains that the learned judge spoke with reason and good sense. The problem indeed is the difficult one of the forgiving spouse (which, of course, means the spouse ready to forgive on the necessary condition of repentance), raised on p. 817, *ante*.

There are two logical ways of dealing with it. One is to order the husband to return home and drop his liaison, and punish him by imprisonment, or some other adequate means, for disobedience. The other is to order him to make full pecuniary compensation to his injured wife for the wrong he has done her, and dissolve the marriage *de jure*, so that the marriage *de facto* may be properly regularised. Which of these ways is the better may be a matter of opinion, but it may be pointed out that neither offers up helpless children as victims by staining them from birth with illegitimacy. It might, indeed, be possible to combine both methods by punishing the husband, and, perhaps, his associate in the offence, and dissolving the marriage when they had worked out their penance.

It need hardly be added that that is not the present way in England. Our method is to allow the husband permanently to desert his wife and to live with another woman, to suffer the *de facto*, but wholly unrecognised, marriage to continue during the joint lives of the parties, and to vindicate the majesty of the law by visiting the issue with the full pains and penalties of bastardy for their presumption in coming into the world in such circumstances.

Those who wish that law changed must make up their minds that it will have to move in one direction or another. Our ancient law did not allow divorce, and the Church could and did break up adulterous unions, even after the Reformation: see, for example, cases 330 and 343, in the Colchester Archidiaconal Court, "Hale's Precedents in Criminal Cases," pp. 104, 110. Even later, after the Church had ceased to punish for adultery (though it may perhaps have retained the nominal power to do so until 1857) the restitution decree, involving imprisonment for contempt on disobedience, may have been a practical means of breaking up illicit unions, for the man's guilty partner would probably be left without money when he was in prison and form other connexions. If, then, divorce is not to follow in such cases, the ancient law should be restored, so far as it imposed an effective veto on those who wished to live in adultery. Probably it would be best to combine the restitution decree with an injunction forbidding the guilty parties to meet or correspond, save with leave. There would be nothing impossible in such legislation. The Punishment of Incest Act, 1908, is used to break up and destroy incestuous unions, and the same machinery could be applied to adulterous ones.

If this would be unworkable, the only reasonable alternative to prevent the birth of illegitimate children is divorce, granted even on the application of the guilty spouse—with the condition, of course, that the innocent spouse shall receive such proper compensation, by way of alimony or otherwise, as shall meet the justice of the case.

The idea of making adultery a criminal offence may startle the present generation, which has been brought up to regard indefinite legal celibacy (as that of the spouse of one imprisoned for life), as a recognised status. It would not be reasonable to punish the wife of a reprieved murderer, perhaps left penniless with a young family, for availing herself of the protection which would have been lawfully open to her if the reprieve had not been granted. But punishment for refusing to conform with a law which accords reasonable divorce, would not be unjust in itself, and Mrs. Munford makes out a *primâ facie* case for its imposition. In the consequences, and in the contempt for law and usage involved, adultery is a more serious offence than petty theft, not to mention exceeding the speed limit in a car, or betting for ready money. It has in fact, variously defined, been made a criminal offence in a number of American states, and in some a felony.

A sweeping law to make adultery a criminal offence in every case might be impossible to enforce. But adultery which breaks up a home is a different matter. A few men of extreme wealth have made two or three appearances as co-respondents in our courts, knowing that they could afford to pay any damages. Of these men it may be said that they simply flouted our law of marriage. It is the laxity of the written law in this respect which gives rise to the "unwritten law," according to which a jealous man may constitute himself judge, jury, and executioner of a suspected rival. At least two trials for murder in the last few years (both resulting in the acquittal of the accused), might have been prevented if we had had a law corresponding to ss. 497 and 498 of the Indian Penal Code, one section punishing adultery to a maximum of five years imprisonment, and the other forbidding enticement with a view to adultery with a maximum of two years. In each of the above cases the dead man would have been punished under such a law, and the home preserved, while he was kept in prison.

Practical Points on Insurance Law.

Lord Hewart, the Lord Chief Justice, presided at a meeting of the Solicitors' Managing Clerks' Association in the Inner Temple Hall, on Friday, the 28th October. Those present included Miss Joan Clarkson, Messrs. M. Wolff and D'Arcy Edmondson and the Hon. Michael Morris, Barristers, and Messrs. J. Theodore Goddard, C. Stephenson Squires, and F. W. Chamberlain, Solicitors.

Mr. Gilbert Stone, B.A., LL.B., delivered a lecture entitled "Practical Points on Insurance Law," in the course of which he said that the first principle was that the contract of insurance was a contract of the highest faith. Everyone knew that the contract of insurance, like every other contract, could be avoided for fraudulent or material misrepresentation. In the case of insurance, however, innocent non-disclosure of a material fact also entitled the insurer to avoid. If the avoidance was by way of claim the remedy was equitable, laches was a defence, and relief was upon equitable terms. If the avoidance was by way of defence, laches was not a reply, but waiver or acquiescence was. The most important points of general practical use to remember in this connexion were, he thought, (1) that facts only needed to be disclosed; (2) that only material facts needed to be disclosed; (3) that those were material facts which a reasonable man (i.e., not of necessity either the assured or the insurer: *Glicksman* v. *Lancashire and General Assurance Company*, 136 L.T.R. 263; 1927, A.C. 139) would deem material; (4) that no disclosure was necessary after the contract was made. To this last point he directed particular attention, because the proposition applied not only to non-disclosure, but also to positive representations, and arose somewhat frequently in practice. The application in any particular case of the principle that non-disclosure, or misrepresentation, before the contract was made avoided the contract involved a consideration of when the contract was made, and this apparently simple point was in fact, often quite involved. (1) No contract of insurance

(other than marine or guarantee) need be in writing, though, under the Stamp Act, the office was under a liability to issue a stamped policy within a month after the premium was received. It was the better opinion that neither the Stamp Act nor the Gambling Act (which used terms which implied that where there was insurance there was a "policy" which expressed terms), required the contract to be in writing in the sense that the Marine Insurance Act required marine insurance policies to be in writing, or that the Statute of Frauds required guarantee contracts to be in writing. (2) A contract of insurance where no particular form was necessary was concluded when an offer had been accepted. (3) A distinction should be drawn between cases where matters were still in the preliminary stage and cases where a policy had been issued. In the latter case, even if risk of insurance was delayed until payment of premium, it was probable that the office could not refuse a tender of premium, even though the risk had altered after the issue of the policy. But if a policy had not been issued, but the matter had reached the stage where a proposal had been accepted subject to insurance being delayed until the premium was paid, and after such acceptance there was an alteration of the risk and the premium was tendered, it could be refused under the rule in *Canning* v. *Farquhar*, 1886, 54 L.T.R. 350; 16 Q.B.D. 727. In neither case was the office liable for a loss happening before the payment of the premiums: *Sickness and Accident* v. *General Accident*, 1882, 19 R. 977. The difference lay in the fact that in the first case, but not in the second, alteration in the risk did not entitle the office to decline the premium, i.e., to decline the insurance. *Looker* v. *Law*, 1927, 43 T.L.R. 691, is a perfect example of the distinction. The mere issue of a policy with a clause deferring insurance until the premium is paid does not amount to an "insurance": *Equitable Fire and Accident Office* v. *Ching Wo Hong*, 96 L.T.R. 1; 1907, A.C. 96. (4) The duty to disclose lasted right through the negotiating period up to the time of the contract being made: *Yager* v. *Guardian*, 108 L.T.R. 38; but the contract might be concluded before the policy was issued. After the contract was concluded the duty to disclose *primâ facie* ceased, even though the risk was delayed. Another point arising out of this principle of the highest faith was one which was always occurring. The proposal questions were filled up by the agent and signed by the assured. Was the agent the agent of the office or of the assured (*a*) for the purpose of filling in the proposal, (*b*) for the purpose of acquiring knowledge? Broadly speaking, he was the assured's agent to fill in the proposal, and the office's agent to acquire knowledge. Circumstances might, indeed, render it impossible for the office to rely on erroneous statements made in the proposal by the agent, even though not affected by knowledge: *Keeling* v. *Pearl Assurance Company Limited*, 129 L.T.R. 573. Another point sprang from the warranty clause in the proposal, the most practically important in the whole of insurance law. A fact warranted true must be true, warranted correct must be correct: *Condogianis* v. *Guardian Assurance Company Limited*, 125 L.T.R. 610; 1921, 2 A.C. 125. A second principle was the need for an insurable interest. It was observed in *Williams* v. *Baltic Insurance Association of London*, 131 L.T.R. 671; 1924, 2 K.B. 282, that it was not necessary to show interest at the time of the contract, and *Rhind* v. *Wilkinson*, 1810, 2 Taunt. 237, was referred to. Where the Gambling Act, 1774, applied it would seem that the interest must exist at the time of contract. The lecturer drew attention to the following points: (1) The Gambling Act relates to life and other risks. (2) As regards life risks it is well established that interest must exist at time the contract is made and need not exist at time of loss, i.e., death. (3) The Act does not deal differently between life and other risks that are within the Act. (4) Unless there is to be one construction in the case of one risk and another in the case of another, it is necessary in the case of risks other than life risks which fall within the Gambling Act, that interest should exist at the time of effecting the contract. (5) In the case of risks not within the Gambling Act, all that is necessary is that the contract be not a gaming or wagering contract. (6) In all cases of insurance, other than those forms, which are not contracts of indemnity (e.g., life or accident or endowment) it is necessary that there should be interest at time of loss. Where the Act of 1774 did not apply, e.g., motor car policies, quite different considerations applied, and the rule in *Rhind* v. *Wilkinson* was probably too rigorous. A third principle was that insurance contracts (other than fire and life risks) were contracts of indemnity. Out of the principle of indemnity arose points relating to the right of reinstatement, the doctrines of abandonment and subrogation. Subrogation sprang out of the doctrine of indemnity. It did not therefore apply in life assurances, and in policies covering personal injuries it was usual and best to take specific powers which, in the case of contracts of indemnity, would arise by way of subrogation. Where a policy was without recourse subrogation was excluded. The doctrine of subrogation was one of great importance in insurance law, and practice. As a matter of practice, when a loss was paid it was usual in many kinds of insurance to seek to obtain on behalf of the office a subrogation receipt—that was, a document whereby the assured admitted indemnification and undertook to do all things necessary to assist the office in enforcing any right which the assured might have arising out of the loss. Such a receipt had certain practical advantages, for it made express and clear-cut what otherwise must be implied; but, apart altogether from any undertaking that the assured might enter into, where A indemnified B against loss X, A thereby stood as of right in B's shoes to enforce any remedies or recover any recompense which B might have or receive as of right relating to loss X, and if B hindered the exercise of that right B might be sued and compelled to allow A to sue in his (B's) name, and might be compelled by action or injunction to assist, or not to hinder A in the proceedings he had instituted: *Castellain* v. *Preston*, 1883, 49 L.T.R. 29; 11 Q.B.D. 380. A very interesting point relating to subrogation was decided in *John Edwards and Co.* v. *Motor Union Insurance Company*, 128 L.T.R. 276; 1922, 2 K.B. 249, viz.: that if the contract of insurance was illegal, payment under it did not give rise to subrogation of rights. The insurance having been made irrespective of interest, the payment was made irrespective of indemnity. The lecturer, in dealing with the theory of subrogation, craved leave to deviate in order to consider the very common case of a collision between two motor vehicles, where each side accused the other of negligence. It then became a question as to who should do the attacking and who the defending. In such cases each pleading was practically an inverted mirror of the other, and it was merely a matter of tactics who was plaintiff and who defendant. In deciding the tactical advantages of one position or the other there were many points of view. He called particular attention to the rule of taxation which was variously explained in *Christie* v. *Platt*, 124 L.T.R. 649; 1921, 2 K.B. 17; *Wilson* v. *Walters*, 134 L.T.R. 597; 1926, 1 K.B. 511, and *Continental Contractors Limited* v. *Medway Oil and Storage Company Limited*, 1927, W. N. 256. That the position was not quite clear would be seen from these cases. It was made less clear by the fact that the Court of Appeal had before it, shortly after *Wilson* v. *Walters* was decided, the case of *Hilliard* v. *Dugon*, where all the decisions were considered, and the court reserved judgment. The facts were precisely as in *Wilson* v. *Walters*, and the decision was the same as in that case, although a strenuous attempt was made to get the rule in *Christie* v. *Platt* adopted. The latest case, above cited, was not as yet fully reported. Assuming that *Wilson* v. *Walters* was still good law, the tactical position, so far as costs were concerned, was as follows: whether you were plaintiff or defendant, if you won you got costs; if you lost and the other side did not, you paid costs. Both sides could not win in a case of this nature, but both could

lose. If both sides lost, then it was much better to be defendant than plaintiff, for the taxation proceeded by giving to the defendant all the costs of the claim, e.g., counsel's brief, and then, when the counter-claim came to be taxed, allowing nothing to the plaintiff for items already disposed of. This, in a normal case, worked out at about £25 for the plaintiff who was successful on the counter-claim, and £250 for the defendant who was successful on the claim. The second great point to bear in mind was that, if in a collision case you were attacking two different parties, the preliminary letter should be worded so as to assist in obtaining a Bullock order when costs came to be discussed. The lecturer next dealt with such subjects as the premium and the risk, payment under policies, and gave particular examples upon the effect which alterations in European currencies had in practice had upon liability under pre-war policies, stressing the difference which was to be found between the principles laid down by decisions in this country and abroad, especially in France, giving as examples *Anderson* v. *Equitable*, 42 T.L.R. 302, and *Buergu* v. *New York Life*, 43 T.L.R. 601, on the one hand and the *Suez Canal* v. *La Baloise* cases all decided in France on the other hand. The possible effect of the Latin convention in the case of currencies expressed in francs was adverted to. Finally, the lecturer examined the important questions which arise and the wording of the declarations at the foot of proposal forms, and after dealing with ordinary warranties considered those forms which are either promissory warranties or alternatively stipulations relating to and descriptive of the risk. The position which arose where a statement as to the future user, e.g., of a motor, was warranted had been twice considered within the last seven years: *Farr* v. *Motor Traders' Mutual Insurance Society Limited*, 123 L.T.R. 765; 1920, 3 K.B. 669; *Roberts* v. *Anglo-Saxon Insurance Association Limited*, 137 L.T.R. 243. In the one case the statement was "Used in one shift only," and in the other the question was "State clearly the purposes for which the vehicles are to be used," the answer being, "Commercial." It was held in both cases that the answer did not constitute a warranty so as to avoid the policy instantly a user arose different from the user represented, but that it was a description of the risk, and that if the loss occurred while the risk was other than as represented it was outside the cover, whether it was contributed to or not by the variation. Accordingly, in *Farr's Case*, the office was held to be liable, and in *Roberts' Case* it was not.

Lord HEWART, responding to a vote of thanks, said the benchers of the Inn had always great pleasure in assisting by granting the use of the hall, or in any other way, an association that did so much, not only for the instruction and education of its members, but also for the preservation of that *esprit de corps* which was the very essence of the legal profession.

A Conveyancer's Diary.

Representation to Land Ceasing to be Settled on Testator's Death.

In *Re Bridgett and Hayes' Contract*, 1927, W.N. 275, Romer, J., considered and applied three important provisions contained in the Property Acts. The facts of the case were briefly as follows: A testatrix, T (who died in 1875), had, by her will, given property, including land, to trustees upon trust to pay the income to L during her life, and after L's death, in the events which happened, upon trust for sale. On L's death in 1926 a general grant of probate of her will was made to E as sole executor, who then agreed to sell as representative certain leaseholds forming part of the estate settled by T's will. S E, who at L's death was the sole surviving trustee of T's will, had appointed new trustees of T's will and retired, and the trust estate had been expressed to be vested in the new trustees.

The purchaser objected to the title offered on the ground that the surviving trustee of T's will was (under S.L.A., 1925, s. 30 (3)) the S.L.A. trustee of the settlement subsisting under T's will, and that such surviving trustee must (under Ad. of E.A., s. 22 (1)) be deemed to have been appointed special executor as respects the settled land, and that the legal estate in the leaseholds was therefore vested in him as special executor. The following steps were claimed to be necessary in order to make a good title: (1) the revocation of the grant of probate to E as respects the land settled by T's will; (2) a new grant of probate to the trustee of T's will as special executor; and (3) an assent by the trustee of T's will as special executor to the vesting of the property in the new trustees.

For the vendor it was urged:—

(1) That the trustee of T's will was not at T's death a S.L.A. trustee of the land settled by T's will, and that accordingly the legal estate was not vested in him as special executor;

(2) That E had obtained a general unlimited grant of probate to T's estate, and that as long as such grant remained unrevoked and unvaried E was T's representative as respects the settled land and could himself make a good title or could assent to the vesting of the property in the new trustees of T's will to enable them to make title.

Mr. Justice Romer decided that the vendor had shown a good title.

(1) An order of the court under any statutory or other jurisdiction is not, against a purchaser, to be invalidated "on the ground of want of jurisdiction . . . whether the purchaser has notice of any such want or not": L.P.A., 1925, s. 204 (1). It followed from this section that wherever the legal estate in the property might have been between the date of T's death and the general grant to E, the grant vested the property in E, or more accurately perhaps indicated that E was the person in whom the property had become vested by his being deemed to be appointed executor and who could make a title.

(2) Further, all conveyances of any interest in real or personal estate made to a purchaser either before, on or after the 1st January, 1926, by a person to whom probate or letters of administration have been granted are valid notwithstanding any subsequent revocation or variation of the probate or administration: Ad. of E.A., 1925, s. 37 (1), confirming *Hewson* v. *Shelley*, 1914, 2 Ch. 13. This provision would clearly operate to protect a purchaser who took a title from or through E.

(1) and (2) seem to have constituted sufficient grounds on which to decide the point at issue in *Re Bridgett and Hayes*, but the learned judge offered a third reason for the conclusion at which he arrived. He stated that Ad. of E.A., 1925, s. 22 (1), does not apply where upon the death of the tenant for life the settlement previously existing up to the date of the death came to an end. "Before anyone could go to the Court of Probate," he is reported to have said, "and get probate, specially limited to settled land, granted to him, he must be able to say that he was to be deemed to have been appointed special executor of the land, because at the death of the tenant for life he was the trustee of the settlement thereof. But he could only say that in relation to a settlement then existing, and in this case the settlement had come to an end on the death of the tenant for life."

With great respect, we would express a doubt whether that is the correct view, at any rate in all cases, of the meaning of "settled land" in s. 22 (1). Indeed, on the special facts of the case it seems to be directly opposed to the decision of Lord Merrivale, P., in *Re James*, 162 L.T.Jo., p. 498, though it seems in the latter case the matter was not contested.

It must be borne in mind that the whole object of providing for special representation with respect to settled land is to keep the estate of which the deceased was trustee-estate-owner distinct from his general assets and to grant representation in

respect thereof to persons familiar with the settled estate and interested in its preservation, namely, to the trustees of the settlement. But the difficulty is that the section does not clearly indicate the moment of time at which the land is to be deemed to be "settled" for its purposes. Had it been enacted that the special executors were to be the persons "who *immediately before* the testator's death, etc." or the persons "who *immediately after* the testator's death, etc." then there would be little room for doubt. The words actually used, "who are *at* his death, etc." are, it is submitted, consistent with either view.

It may be argued that the second sentence in s. 22 (1) (admitting that it does not define the expression "settled land" for the purposes of the section, see *infra*) seems to indicate that it is a moment previous to the testator's death that is the material time.

Again, representation is necessary in order to administer, and for that purpose to continue, the estate vested in the deceased. Hence it should be the nature of the estate, as it was when vested in him, that ought to be considered. In fact, the second sentence in s. 22 (1) refers to the settled land as land "vested in the testator."

Finally, it would be convenient if a grant were made to the former S.L.A. trustees, where under S.L.A., 1925, s. 36, the land is to be held by them on trust for sale by reason of the subsistence of undivided shares.

On the other hand, it is to be observed that the last sentence of s. 22 (1) is obviously not a definition of "settled land," but was inserted to exclude land settled by the testator's will: see 2 Wolst. & Cherry, p. 507. It is understood that the learned judge in his remarks, during the argument, took this view, and indicated that this sentence did not convert into "settled land" any land which would not otherwise be treated as "settled."

The main criticism which may be levelled against Romer, J.'s view as to the meaning of "settled land" in s. 22 (1), is that it breaks into what otherwise might have been a clean-cut line of demarcation necessarily to be drawn for the purposes of representation between land held by a tenant for life as trustee-estate-owner, and land held by him which was not settled. But, on the other hand, there can be no doubt that if a general grant is sufficient where the land ceases on the death to be settled, this will save costs and remove a possible grievance in the case of small estates.

Landlord and Tenant Notebook.

Notice of Increase of Rent under Rent Acts.

The decision of the Court of Session in *Marshall* v. *Clydebank Investment Co., Ltd.*, 1927, Sc.L.T. 606, as to the principles which should guide the court in determining whether a notice of increase of rent is valid or invalid, should not be regarded as a precedent with regard to the principles by which English courts will be guided.

There objection was taken to a notice of increase of rent on two grounds, viz.: (1) That the amount of increase on account of rates was stated inaccurately; and (2) that charges were calculated in respect of stair gas, which could not be regarded as a rate.

The Scottish system of rating is different from our own, rates being based on a valuation of property, made in October of every year, but levied in respect of possession from the Whitsunday preceding that date. Until the actual valuation is therefore made, the landlord is not in a position to know the exact amount of the rates, and if an anticipatory notice of increase of rent on the ground of an anticipated increase of rates is served, the figures in the notice are not likely to tally with the actual figures after the valuation has been made and the amount of the rates determined. The Scottish courts took the view in the above case that such an anticipatory notice of increase of rent is not on that ground alone to be regarded as void if after the actual figures are known the exact amount only is claimed by the landlord.

This ruling, it is submitted, does not correspond with the express provisions of s. 2 (1) (*b*) of the Rent Act, 1920, which permits as an increase of the standard rent payable an amount not exceeding any increase in the amount *for the time being* payable by the landlord in respect of rates over the corresponding amount paid in respect of the yearly, half-yearly or other period which included the 3rd day of August, 1914.

The above decision, it is submitted, does not pay sufficient consideration to the words "for the *time being*," and would appear to have the effect of construing the above provision as if those words were omitted therefrom. It is submitted that *Marshall* v. *Clydebank Investment Co., Ltd.*, is a decision which would not be followed by English courts, as far as this particular point is concerned, nor does it appear that the following statement from the judgment of Lord Anderson as to the principles to be observed in construing the Rent Acts, in so far as it applies to notices of increase, is a correct statement of law, as far as the English courts are concerned:—"These Acts of Parliament interfere with freedom of contract between landlord and tenant, but for them the landlord would impose his own conditions as to payment of rent and amount of rent and other conditions of tenancy which the tenant would have to agree to or be without a house. They limit the freedom of contract which otherwise, under the common law, would be open to the landlord. Accordingly that consideration seems to me to point in this direction, that when a sheriff substitute has to apply his mind to the construction of one of the statutory documents such as, in this case, the notice, he ought to construe the document benignantly and not malignantly, and in the same way, when he is dealing with the actual language of the statute itself where it is ambiguous, the judge ought to construe that statutory language reasonably and judicially and not judaically.

The third observation is just a corollary to the two previous ones, and it is that a sheriff substitute, dealing with these Acts of Parliament, ought in his judgment to do everything possible to discourage pleas in law which are based on mere technicalities and which support no principle or consideration of justice.

The trend of English authority, with regard to the validity of notices of increase, appears to be entirely the other way. The leading English authority seems to be the case of *Penfold* v. *Newman*, 1922, 1 K.B. 645, the law being stated in the following terms by Mr. Justice Horridge. After drawing attention to the increased stringency of the requirement with regard to such a notice contained in the 1920 Act, the learned judge continued: "As to the first of these requirements it is to be observed that the word 'valid' means more than correct in form. *It means correct not only in form but also in substance.* If it had only been intended that the notice should be correct in form, there would have been no reason why the present Act should not have contained the same provision as the earlier Act contained. There must have been some reason for the insertion of the term 'valid' in the amending Act. I think the term was inserted because it was intended that the notice should be correct in substance as well as in form, and should accurately state all material facts including the amount of the increase of the rent which the landlord has a legal right to claim."

And, again, Shearman, J., said in the same case: "The Act requires that the notice of increase under clause (*c*) should state correctly the net rent and the standard rent of the premises and the percentage of the net rent which the landlord claims as increase of rent, and it seems to me that a notice of increase which states under that clause a sum which is not the correct percentage of the net rent is not in accordance with the requirement of the Act."

To deal now with a further point raised in *Marshall's Case*, i.e., whether the wrongful inclusion of a separate additional charge will invalidate a notice. The charge in question in *Marshall's Case* was in respect of stair gas, which was made, though, as the Court held, wrongly, as an item under the heading of rates. Although the Acts do not contain any adequate definition of rates—cf. for example s. 12 (1) (*a*) of the 1920 Act, defining rates as "including water rents and charges"—undoubtedly charges on account of stair gas cannot possibly be regarded as being included in the expression "rates."

Now the notice in *Marshall's Case* stated the amount of the increase on account of rates, but contained a note to the effect that the item in respect of rates contained a charge of "ten shillings per month under the head of stair gas." Had it not been for this explanatory note, it is submitted that the notice would clearly have been void, and the question therefore arises whether an otherwise correct notice will be vitiated by including therein a separate and identifiable charge, not warranted by the Acts, which the tenant is in a position entirely to disregard.

As far as we are aware there does not appear to be any English authority on the point, but in an earlier Scottish case it was held that such a defect would invalidate the notice: *Lamb* v. *M'Gettigan*, 1925, Sc.L.T. 23. In that case the notice contained at the foot thereof a statement to the effect that, in addition to the specific increases already referred to, a stated sum had to be paid monthly in respect of stair gas.

This decision was reviewed by the Court of Session in *Marshall's Case* and definitely overruled. From the English lawyer's point of view, however, *Lamb* v. *M'Gettigan* seems to have been correctly decided. The difficulty of determining such questions, however, might in many cases conveniently be obviated by the court in practice if s. 6 of the Rent Act of 1923 were appealed to. Under that provision the court is given a discretionary power of amending a notice if it is satisfied that any error or omission was due to a *bonâ fide* mistake on the part of the landlord, the court having a further discretion in such cases of ordering that the notice as amended should be deemed to have had effect even retrospectively as a valid notice.

Correspondence.

Signature "*per pro.*"

Sir,—Your correspondents suggest that the case of *Kettle* v. *Dunster*, 43 T.L.R. 770, would have been decided differently if the attention of the judge had been drawn to the Companies Act, 1908, s. 77, viz., "a bill of exchange . . . shall be deemed to have been made . . . on behalf of a company if made . . . *in the name of* or by or on behalf of or on account of the company by any person acting under its authority." They also suggest that Mr. Kettle did sign in the name of the company, and that the word "receiver" was merely redundant.

The point is an interesting one, but the explanation is probably this: The expressions "in the name of or by or on behalf of or on account of" are not used disjunctively in the Act, but are intended to be synonymous. As regards the word "receiver" being redundant, the court would probably have held that a composite signature is not severable, and must be read as a whole. To ignore any word or words as redundant, would be a breach of this principle. As Mr. Kettle did not specify that he was signing "by or on behalf of or on account of" the company, it would follow on the above reasoning that he also did not sign "in the name of" the company.

15th November. YOUR CONTRIBUTOR.

Reviews.

The German Law on Private Insurance. By Dr. ALFRED SIEVEKING. London: Stevens & Sons, Ltd. 12s. 6d.

This volume contains a translation of two German laws; the Law of 1901, relating to the Control of Private Insurance Business, and the Law of 1908, relating to Contracts of Insurance. It also contains a translation of that part of the German Commercial Code which relates to marine insurance, but the feature of the book which will probably appeal most to English lawyers is the section which deals with the General Rules of Marine Insurance of 1919, drafted by the German underwriters in co-operation with the German Chamber of Commerce. These rules are not, of course, in the nature of laws, but appear to have been universally accepted in Germany, and are deemed to be included in every contract of marine insurance entered into in Germany unless the contract contains a stipulation to the contrary. We find here an interesting illustration of the modern tendency on the part of business men to seek to regulate their business transactions by rules drawn up by themselves rather than by the provisions of legislative enactments. The wisdom of this course may be doubted in view of the many difficulties which are being experienced in interpreting the rules which are scheduled to the Carriage of Goods by Sea Act, 1924, and it would be interesting to know more about the working of the German General Marine Insurance Rules in practice.

A word of praise must be given to the translation. The learned editor's rendering of German legal phraseology into its English equivalents is in every respect an admirable piece of work, and the book possesses a distinct value from this point of view alone.

Books Received.

Civil Judicial Statistics, statistics relating to the Judicial Committee of the Privy Council, the House of Lords, the Supreme Court of Judicature, County Courts, and other Civil Courts for the year 1926. Compiled by the County Courts Branch, Lord Chancellor's Department, House of Lords, S.W.1. 1927. Cmd. 2971. H.M. Stationery Office. 1s. net.

Patents Conveyancing. Reprinted from Prideaux's Precedents in Conveyancing. Twenty-second edition. With an additional note on British Patent Rights in the Irish Free State, and the Industrial and Commercial Property (Protection) Act, 1927, of the Irish Free State. JULIAN Q. HENRIQUES, of the Inner Temple, Barrister-at-Law. 1927. Medium 8vo. pp. xvi and 97 (with Index). Stevens and Sons, Ltd., Chancery-lane, W.C.2; The Solicitors' Law Stationery Society, Ltd., 104, Fetter-lane, E.C.4, Liverpool and Glasgow. 7s. 6d. net.

Trade Union Law. Sir HENRY SLESSER, Kt., K.C., and CHAS. BAKER, Solicitor. 3rd Edition. 1927. Large crown 8vo. pp. xxvii and (with Index) 424. Nisbett & Co., Ld., 22, Berners-street, W.1. 25s. net.

Rating and Valuation Act, 1925. Third Series of Representations made to the Minister of Health by the Central Valuation Committee, and circulated by the Minister to Local Authorities. 32-9999. 1927. pp. 24. H.M. Stationery Office. 2d. net.

Bedwellty Union. Report of the Guardians appointed by the Minister of Health to constitute the Board of Guardians for the Bedwellty Union. Period ending 30th September, 1927. Cmd. 2976. H.M. Stationery Office. 3d. net.

Ministry of Health. Statement showing the Number of Persons in receipt of Poor Law Relief in England and Wales in the Quarter Ending in September, 1927. With some particulars as to the number of "Unemployed" Persons in receipt of such relief. 1927. H.M. Stationery Office. 4d. net.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 29, Breams Buildings, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

EQUITABLE MORTGAGE—RIGHTS OF MORTGAGEE.

1031. *Q.* With respect to the answer to *Q.* 1016, p. 861, surely an equitable mortgagee cannot enter into possession?

A. Our contributor perhaps puzzled and misled by the reference to the deed limiting the mortgagee's power of sale (and a power of sale can only arise under a mortgage deed) appears to have been dealing with the possibility that the deed referred to was a mortgage deed in favour of the bank in the usual form. He correctly defines the position, if otherwise, by the reference to s. 13 of the L.P.A., 1925. His reference to a case in "B & C" as his authority makes it clear, if the answer is read carefully, that the advice in the latter part applies only to a legal mortgage. If the reference to "the deed" was to the deed of assignment and not to a formal mortgage, the answer must be amended accordingly, but the reference to the bank's power of sale implies a mortgage deed also.

REPRESENTATION—DEATH OF EXECUTOR INTESTATE AND BEFORE PROBATE—TITLE TO PROPERTY OF TESTATOR.

1032. *A.* A.B. dies in September, 1926, seised of two small freehold properties, having by his will given all his property to his wife, C.B., and appointed her sole executrix. C.B. proceeds to prove the will, but dies a few days before probate is granted, intestate and leaving two daughters. The daughters then apply for administration of the estate of C.B., and A.B.'s estate is included as part of her estate, and estate duty is paid at the reduced rate (quick succession) and the grant is obtained. The daughters have agreed to sell part of the property and the purchaser's solicitors raise several objections, and they claim that assent was not given to the devise to C.B., that the probate is inoperative and the chain of representation being broken, they insist on letters of administration *de bonis non* to the estate of A.B. being first taken out. Are the purchaser's solicitors within their rights in insisting on this?

A. The purchaser's solicitors are right. They are entitled in the circumstances to insist that title be made by the personal representatives of A.B.; the daughters are not such personal representatives, and will only become such by obtaining a grant of administration *de bonis non.*

PRE-1926 WILL—PERSONAL REPRESENTATIVES.

1033. *Q.* A made his will in 1906, and appointed his wife, B, to be the executrix thereof during her life, but, in so far only as the testator's residuary estate was concerned, C was appointed a co-trustee with B during her life. After the death of his wife, B, the testator appointed his nephew, D, to be the executor of his will. A died and probate was granted to B in 1914, no power being reserved to make a like grant to D. Both B and C are now dead, B having made a will and appointed an executor. The residuary estate of A consists of certain investments and properties, and the question has arisen as to who is to administer such estate. Is it the nephew, D, or the executor of B?

A. Assuming the beneficiaries have been in the enjoyment of the property subject to the will, the presumption of the executor's assent could not be displaced, see *Wise* v. *Whitburn*, 1924, 1 Ch. 460. The estate thus being fully administered, A's personal representatives as such have no title to it. The residuary personalty will be vested in the personal representative of the survivor of B and C upon the trusts of the will, unless the subject of an absolute gift. The realty will be vested, if settled on B for life and she was living on 1st January 1926, in her special representatives, as found by the S.L.A., 1925, s. 30, and they must obtain a grant under the A.E.A, 1925, s. 22 (1), to deal with the property under the S.L.A., 1925, s. 7.

LANDLORD AND TENANT—EJECTMENT.

1034. *Q.* On the 9th December, 1925, A lets to B a cottage, which is vacant. The agreement to let is a home-made one, and states that the property is let to the tenant "yielding and paying therefor the weekly rent of 14s. and rates." Clause 2 of the memorandum of agreement states: "The tenancy shall be for three years, the tenant to have the option to purchase at the end of the first twelve months." The tenant paid his rent from December, 1925, to October, 1926, when he started to get into arrear, and he now owes £33 arrears of rent. A has tried to obtain a county court order for payment of the arrears, and failed on the ground of the tenant's inability to pay. The question now asked is: Can he obtain possession on the ground that the payment of rent is a condition precedent for the continuation of the tenancy, or, in other words, does not the tenancy end at the time that the tenant fails to pay rent, despite the agreement for three years?

A. The case is a most unusual one, and the following view is given with some diffidence.

A lease generally creates an estate upon condition (but not a conditional estate), i.e., an interest in land which on the happening or non-happening of one or more events, may be avoided (but which does not become *ipso facto* void, as would be the case where the estate was a conditional estate).

The events on the happening of which the interest may be avoided (by the lessor) are the non-performance by the tenant of one or more of the covenants in the lease or agreement.

Where there is a breach of covenant or agreement on the part of the tenant, the landlord has no right of forfeiture or re-entry, and is only entitled to damages. But the breach of covenant may amount at the same time to a breach of *condition*, and where this is the case, the landlord would have the right to re-enter. It must be proved strictly, however, that there has been a breach of condition, and it will not be sufficient to show that the tenant had entered into a covenant, whether express or implied, as, for example, in this case, to pay rent. It is by means of the proviso for re-entry that a covenant is converted into a condition. But this is not the only way. Where such expressions are used as, for example, "as long as," or "provided that," these expressions would be sufficient to show that the estate created was really an estate upon condition. It is assumed that there is not the usual proviso for re-entry for non-payment of rent in the agreement in question, and without sight of the agreement it is difficult to say whether it contains any expressions which sufficiently indicate that the interest of the tenant therein was to cease if the rent was not paid.

On the information given it is thought that the lessor has no right to re-enter or to avoid the lease for non-payment of rent, and if that be the case, it is quite clear that any proceedings which he may take for forfeiture on the ground of non-payment of rent would be of no avail.

There may possibly be one way of getting over the difficulty. It is assumed that proceedings were taken in the county court

for recovery of the arrears and that judgment has in fact been obtained for those arrears, a judgment, however, which the lessor has not been able to execute owing to the lack of means and effects on the part of the tenant to satisfy the judgment.

There seems no reason why the lessor should not take out, by way of execution, a writ of elegit, whereby the sheriff would be entitled to deliver to the judgment creditor all the lands of the debtor, which would include this leasehold interest, provided, however, that the debtor, and the debtor alone, was in possession, and in the event of the debtor still refusing to give possession, proceedings in ejectment might then be maintained. Should the tenant, however, have sublet to other persons, these persons could not be ejected under the writ of elegit until their respective terms had been duly determined, whether by effluxion of time or notice to quit or otherwise. Or else the term might be seized under a writ of *fieri facias* and sold by the sheriff.

It is assumed that the Rent Restrictions Acts do not apply.

SURVIVING JOINT TENANT BENEFICIALLY ENTITLED—TITLE ON SALE.

1035. *Q.* A and B having decided to marry, bought a leasehold house which was assigned to them in 1921 (before marriage) as joint tenants by a deed which recited that the purchase money was paid by them out of moneys belonging to them on a joint account. Each of them provided part of the purchase money, and the remainder was raised by a mortgage by assignment of the house also created in the same year and before marriage. Their intention was that the house should be their joint matrimonial residence, and that ultimately it should become the sole and absolute property of whichever of them survived the other. The marriage was duly solemnised. In May 1926 B died intestate leaving her husband and an infant surviving. She had other property exceeding £1,000 in value. Hence the husband took out letters of administration in conjunction with another person (an infant being interested) and, as is usual, he had to include in the affidavit for payment of estate duty one moiety of the value of the said house, being the benefit deemed to have accrued to him in consequence of his wife's death, but it is not part of her estate for any purpose other than for assessment and payment of estate duty on her death. A has now agreed to sell the house free from the mortgage which will be discharged either by statutory receipt or by the mortgagee joining in the assignment, whichever course may be preferred by the purchaser's solicitors, but they say that a valid assignment cannot be made without the appointment of a new trustee to join in giving a receipt for the purchase money, and although we have informed them of the above-mentioned circumstances relating to the purchase of the property, and offered that the vendor shall assign as beneficial owner as well as trustee, they insist that as the law is now there is no alternative to having a new trustee in order that the purchaser may be properly safeguarded. Are they entitled so to insist? The vendor might, but is not anxious to, rescind the contract which contains the usual rescission clause.

A. If the vendor can bring his case (as he seems able to do) within L.P. (Amend.) A, 1926, Sch., amending L.P.A., 1925, s. 36, the purchaser's solicitors are effectively answered.

"GOOD AND SUBSTANTIAL REPAIR"—MORTGAGOR'S COVENANT—EFFECT.

1036. *Q.* Would the question of the extent of disrepair of premises mortgaged to a mortgagee under a covenant to keep them in "good and substantial repair" be of sufficient interest for you to discuss in your Journal? The point is what extent of disrepair is necessary to justify the mortgagee in exercising his power of sale. If premises subject to a mortgage covenant as stated require external and internal painting and colouring and some ceilings cleaned and whitened, and the mortgagor is given notice in general terms of same, could a mortgagee safely sell on default?

A. The exact point raised by the questioners does not appear to have been the subject of decision. It would only be raised if a mortgagee sold under his power of sale, and issue being joined as to whether he was entitled to do so, he pleaded s. 103 (iii) of the L.P.A., 1925 (formerly s. 20 (iii) of the C.A., 1881) in justification, in respect of the breach of covenant to repair. The effect of covenants to repair, however, has again and again been raised between landlord and tenant, and, *prima facie*, the interpretation would be the same. The questioners may therefore be referred to *Calthorpe* v. *McOscar*, 1923, 2 K.B. 573, 68 Sol. J. 367, for a general discussion of the matter and reference to most of the relevant authorities. Possibly in a mortgage of a leasehold a slightly higher standard might be exacted from a mortgagor-lessee, on the ground that the latter's duty to his mortgagee should keep him even from measurable distance of forfeiture. On the other hand, a mortgagee who sold in reliance on s. 103 (iii) above, without giving notice to pay off, might be held to have treated the mortgagor somewhat harshly, and would so have to prove his case strictly. On the whole, therefore, the advice is given that, if a mortgagor suffers premises to fall into disrepair, he should be given notice to pay off under s. 103 (i), on default of observance which the power of sale would unquestionably arise. A mortgagee can also of course take possession and do necessary repairs or appoint a receiver who can execute repairs under s. 109 (8) (iii), but the receiver cannot be appointed until the power of sale arises.

SETTLED LAND—DEATH OF TENANT FOR LIFE—NEW SETTLEMENT—PROCEDURE.

1037. *Q.* A, by her will, devised all her real estate to the use of her daughter, B, for her life, and after the death of B to such issue of B for such estates and charged with such sums as B should by any deed or deeds or by will or codicil appoint, and in default of appointment to various uses. A appointed B sole executrix of her will and died in 1902. B, by her will, appointed C, D and E her executors, and appointed part of the estate to her daughter, D, in fee simple, and the remainder of such real estate to her son, C, in fee simple, subject to and charged with the payment of the sum of £2,000 to D if living at B's death, and subject also to and charged with the payment to D of an annuity of £150 during her life. B died on the 30th June, 1927. We presume that there is a settlement created by A's will. No additional trustee was appointed to act with B, and no vesting deed was made in favour of B. Will you please let us know, therefore—

(1) Whether probate of the will of B limited to settled land must be taken out?

(2) If so, are C, D and E the trustees of the settlement under s. 30 (3) of the S.L.A., 1925?

(3) If so, is it correct to take out a general grant including the settled land?

(4) D wishes to renounce probate of the will of B, and in that case, will C and E only be trustees of the settlement, or would D still remain a trustee of the settlement under s. 30 (3)?

(5) What are the next steps to vest the various properties in C and D in accordance with B's will?

(6) Is there any other way of vesting the properties in C and D which would be quicker and cheaper?

(7) Are we right in presuming that on account of the appointment under B's will the settlement had come to an end?

A. (1), (2) and (3) The general representatives of B (i.e., C, D and E) will take out probate, and the settled land will either be included in the general grant to them or probate limited to it will be given separately.

(4) D can renounce probate.

(5) (*a*) The personal representatives will assent in writing to the vesting of the part devised to D in fee simple in D.

For form of such assent, see Form No. 8 in the 5th Sched. to L.P.A., 1925. It will not carry any stamp duty.

(*b*) As respects the remainder of the property, this, on the death of B, became subject to a new settlement (the old having ceased to subsist) of which the personal representatives of B are the S.L.A. trustees. They will execute a vesting assent (S.L.A., 1925, ss. 6, 8) in favour of C, but containing the necessary statements and particulars.

(6) Another mode of carrying out the will of B is for C and D to agree with the personal representatives of B to hold the property settled by B's will upon trust for sale—the trusts being declared in a deed of even date and being to pay £2,000 to D and from the rents and profits until sale, and from the proceeds of sale thereafter to pay the annuity to D and residue to C. This could not possibly be cheaper or quicker than the other way.

(7) The opinion here given is that the land has not at any time ceased to be settled land, but *on* (though not *at*) the death of B it became subject to a new settlement.

HIRE-PURCHASE AGREEMENTS AND DISTRESS.

1038. Has the landlord any right to distrain for rent upon furniture comprised in a hire-purchase agreement when the property in the goods is not deemed to pass to the tenant until the last instalment has been paid ? If such goods can be distrained upon, would it make any difference if the hire-purchase agreement were made with the husband or wife of the tenant ? If distraint is allowed, I presume the correct course for the vendor of the goods would be to remove them from the premises before they had actually been distrained upon. I assume that the landlord could not follow the goods after their removal ?

A. The landlord has a general right to distrain on furniture in the possession of his tenant, the subject of a hire-purchase agreement: see Law of Distress Amendment Act, 1908, s. 4 (1), *Hackney Furnishing Co.* v. *Watts*, 1912, 3 K.B. 225, and *Jay's Furnishing Co.* v. *Brand*, 1915, 1 K.B. 458. But the Act protects furniture hired on the system by the spouse of the tenant: see *Rogers, Eungblut & Co.* v. *Martin*, 1911, 1 K.B. 19. Perhaps it may be added that a learned text-book writer considers *The Hackney Furnishing Co.'s Case* and *Jay's Furnishing Co.'s Case* to have been wrongly decided: see "W. H. Russell on the Hire-Purchase System," 5th ed., pp. 94-5. Since, however, the latter case is a decision of the Court of Appeal, its authority must prevail over Mr. Russell's opinion unless and until the House of Lords agrees with him.

As to removal of the goods by the owners to avoid distraint, it is submitted that *Tomlinson* v. *The Consolidated Credit and Mortgage Corporation*, 1889, 24 Q.B.D. 135, although decided on a bill of sale, is authority that an owner of goods in the possession of a tenant may lawfully take them away to avoid distress without being guilty of fraudulent removal. And, of course, the goods no longer being on the premises, could not be seized in distress.

RATING AND VALUATION ACT, 1925—RECOVERY OF RATE—JURISDICTION.

1039. *Q.* The rural district council of S. is situated in three petty sessional districts. Application has been made to the clerk to the justices of S. (the division in which the council offices, including the rate collecting department, are situate) for *all* summonses necessary for the recovery of the general rate. The clerk states that each summons must be taken out in the particular division in which the *property assessed* to the rate is situate. In former days, when rates were made by the *overseers* parochially, this was the case, but now, with one rate for the whole area, is not the position different, so that all summonses should be issued for hearing at S. ? The rate demands bear a note that the rates must be paid at the council's offices at S.

A. The rural district of S., and therefore the three petty sessional divisions being presumably in one county, there is authority to show that the jurisdiction of the justices in any division extends to the whole county, see *R.* v. *Beckley*, 1887, 20 Q.B.D. 187, *Caistor R.D.C.* v. *Taylor*, 1907, 97 L.T. 281, and *R.* v. *Beacontree Justices*, 1915, 3 K.B. 388. See also s. 27 of the P.L. Act, 1867, not repealed by the Rating and Valuation Act, 1925. Section 2 (3) of the latter Act prescribes that the general rate shall be recoverable in the same manner as the poor rate, and applies the statutory provisions relating to the poor rate (so far as not repealed) to the general rate. The contention of the clerk to the justices of S. appears, therefore, to be *primâ facie* correct, though, in view of the above cases, if it is more convenient to the justices and the council that all summonses should be taken in S., proceedings accordingly would be *intra vires*.

EXECUTOR OR TRUSTEE FOR SALE—TITLE.

1040. *Q.* A by his will made in 1910 appointed his widow, B, and his son, C, executors and trustees, and gave all his property to them upon trust to sell and to invest the proceeds and pay the income to the wife during her life, and then in trust for the children; and the testator empowered his trustees to postpone the sale "so long as they shall think fit during the life of my wife," and directed that the rents of unsold property should be paid to his wife during her life. At the date of his death in 1912 A was seised in fee simple of freehold property subject to a mortgage. The will was proved in 1912 by both executors, and in the following year the mortgage debt was paid off by, and the security was transferred to, B, the widow. She continued to receive the rents of the property until her death (intestate) in June, 1926, and letters of administration to her estate (general) were then granted to the son, C. He has since sold the freehold property, which was conveyed to the purchaser by C "as personal representative of A."

(1) Please say if this was correct ? or

(2) Did the freehold property vest under the L.P.A., 1925, in B, as tenant for life, subject to the mortgage term ?

(3) How should the conveyance, if ineffective, be rectified ?

(4) Must C, as surviving trustee, obtain a grant of administration limited to the settled estate, and then appoint a second trustee, so that the two trustees may execute a confirmatory conveyance ?

A. (1) The best method of making title in the circumstances is to appoint an additional trustee to act with C and to give a receipt for the purchase money in view of the lapse of fifteen years since the death of A and the consequent probability that at the time of the conveyance C was a trustee rather than an executor.

(2), (4) No. There is no question of the land being settled land. It was vested in B and C as executors or as trustees for sale at the commencement of the L.P.A.

(3) The opinion here given is that the conveyance was not ineffective (one executor can give a valid receipt), but gave the purchaser a good title; see in particular A.E.A., 1925, s. 36 (6), (8), (12).

COPYHOLD—DEATH OF TENANT IN 1926—FINE—LIABILITY FOR PAYMENT—RIGHT TO COMPENSATION AGREEMENT.

1041. *Q.* With reference to the answer to *Q.* 913, p. 678 *ante*, is not the suggestion that the grant of the probate is a "transaction" within L.P.A., 1922, s. 129 (2), negatived by sub-para. (9) of the same section ? Section 138 (1), proviso (i), appears to anticipate cases where the compensation agreement is completed before enforceable manorial incidents have been recovered, and, as you point out, such incidents are recoverable as simple contract debts under s. 130 (5). If the consideration for the compensation agreement is a gross sum, then Form 2 in the 2nd Sched. of the form of compensation agreement, set out in the 13th Sched., will require to be specially worded to meet the circumstances of the case. The objection to pay the fines and fees before the completion of the compensation

agreement appears to be quite unreasonable and to be of no advantage to the personal representatives of B.

A. Section 129 (9) of the L.P.A., 1922, excludes a will, but not the probate of a will, which is a different instrument. Compensation agreements may no doubt be completed before particular payments have been made for past manorial incidents, but, as pointed out, there would have to be a saving in the deed in respect of them.

Obituary.

MR. J. F. READ.

The death occurred on Tuesday, the 8th inst., at his residence Watermillick House, near Penrith, at the age of sixty-eight, of Mr. Joseph Frederick Read, formerly a partner in the well-known firm of solicitors—Messrs. J. F. Read & Brown, Liverpool—of which city Mr. Read was a native. Educated at the Old Liverpool College, Shaw-street, he served his articles with Messrs. Radcliffe & Layton, and after a short time spent in London, he joined the firm—as it was then—of Wareing, Cropper, Son & Read, and subsequently became a partner with Mr. W. H. Trotter Brown, LL.B., under the style of J. F. Read & Brown, in the practice carried on for so many years at 77A Lord-street. Mr. Read retired in 1919, and took up his residence near Penrith, a few years later. He was a member of the Hoylake and Wallasey Golf Club, and had literary and musical tastes.

MR. H. G. STEAVENSON.

Mr. Henry Gordon Steavenson, solicitor, formerly of Darlington, died on Tuesday, the 1st inst., aged fifty-seven. Mr. Steavenson—who was admitted in 1894—held the appointment of Town Clerk of Darlington for thirty years, resigning in 1925. H.

High Court—Chancery Division.

Harris *v.* **Griffith.** Clauson, J. 1st July.

ADMINISTRATOR—PRINCIPAL AND SURETY—BOND—LIABILITY—TRUST TO DISTRIBUTE WITHOUT MAKING PROVISION FOR—ESTATE IN JEOPARDY—TRADESMEN'S ACTIONS AGAINST ADMINISTRATOR—*Quia timet.*

If a surety to an administration bond has reasonable grounds for anticipating jeopardy through an impending breach of duty by the administrator, he is entitled to apply to the court for relief by way of indemnity against his liability under his bond.

Motion.

This was a motion for the appointment of a receiver of a sum of money representing part of the estate of G. Anderson Berry, who died intestate in December 1926, in the hands of the defendant as administrator of her estate, and for an injunction to restrain him from distributing the money amongst the next of kin without first providing against a personal liability of the deceased intestate, to which her estate was subject for claims under mortgages upon certain real estate in Scotland, in which she was beneficially interested. The facts were as follows: The plaintiffs had joined with the defendant in a bond in which as sureties they became liable in a penal sum in case the defendant should not well and truly administer the estate according to law. The intestate at the time of her death was entitled to a one-fifth share in certain real property at Glasgow, which was subject to mortgages, and in the opinion of Scottish counsel her estate was liable, up to the full value of her one-fifth share for any deficiency in respect of the mortgage thereon. Correspondence ensued between the plaintiff Harris and the defendant, in which Harris who was a member of a firm of solicitors acting on behalf of the defendant in the administration of the estate informed the defendant of the result of the opinion he had taken and would have that there was a serious question as to the liability on the estate of which he, the defendant, was the administrator, in case of a deficiency on realisation of the mortgaged properties, and urging him on that account not to distribute—as the defendant had threatened to do—the moneys forming part of the intestate's estate that were in the hands of his firm on behalf of the defendant as administrator. Harris also called attention to the serious position of himself and his company if the moneys were prematurely distributed, and suggested that they should be deposited in the joint names of himself and his co-plaintiff and the defendant. The defendant however, insisted on the moneys being paid over to him in his right as the administrator, and the only person responsible for the administration of the estate. The plaintiffs accordingly started proceedings for the administration of the estate, and launched this motion when it was agreed that the defendant should take out a policy to adequately protect the sureties, and the motion now came on as the trial of the action to decide the liability for the costs.

CLAUSON, J., after stating the facts, said: There is evidence which satisfies me that the defendant has threatened and persisted in his intention at the date of the writ, to distribute the moneys without making provision against the mortgage liability in contravention of his bond to well and truly administer the estate. The question then is whether in these circumstances the sureties are justified in applying to the court to protect the estate. Upon principle, the sureties are entitled to be placed in as favourable a position as any ordinary creditor of the estate. It is clear that in the case of an actual breach of duty on the part of the administrator—if for instance he were to quit this country in discreditable circumstances, the court would interfere to protect the estate at the suit of a creditor, and if a surety had reasonable grounds for anticipating jeopardy through an impending breach of duty by the administrator, there is no reason why a surety should not apply to the court, *quia timet*, for relief by way of indemnity against his liability under the bond, into which he had entered as surety. In my judgment, the action has been properly commenced, and the defendant will be ordered to pay the costs including the premium in respect of the policy.

COUNSEL: *Sir Thomas Hughes*, K.C.; *L. F. Potts*; *Preston*, *K.C.*, *F. W. Beney.*

SOLICITORS: *Ford, Lloyd, Bartlett* and *Michelmore*; *Peachey and Co.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Rex *v.* **O'Donoghue.**

Lord Hewart, C.J., Avory and Salter, JJ. 7th November.

CRIMINAL LAW—MURDER—MONTH-OLD CHILD—MOTHER CONVICTED—APPEAL—"NEWLY BORN CHILD"—INFANTICIDE ACT, 1922, 12 & 13 Geo. 5, c. 18, 19, s. 1 (2).

A mother was convicted of the murder of her month-old child. On appeal, it was held that the judge at the trial was correct in law in holding that there was no evidence on which he could permit the jury to find that a child of more than a calendar month in age was a newly born child within the meaning of s. 1, *sub-s.* (2) *of the Infanticide Act*, 1922, *so as to allow them to bring a verdict of infanticide in lieu of murder.*

Appeal from the Central Criminal Court. The appellant in this case, Mary O'Donoghue, a waitress, was convicted at the Central Criminal Court of the murder of her month-old child, and sentenced to death, the sentence being subsequently commuted to one of penal servitude for life. The child was born on the 19th August, 1927, and according to her confession to the police, the appellant, on the 21st September, twisted a napkin round the child's neck because she had nobody to

take care of him, and had no money herself. Talbot, J., at the trial, was of the opinion that the child was not newly born within the meaning of the Infanticide Act, 1922, and held that it was not open to the jury to convict the appellant of infanticide. It is enacted by s. 1, sub-s. (2) of the Act: "Where upon the trial of a woman for the murder of her newly born child, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission she had not fully recovered from the effects of giving birth to such child, and that by reason thereof the balance of her mind was then disturbed, the jury may, notwithstanding that the circumstances were such that but for the provisions of this Act they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide."

Lord HEWART, C.J., in giving judgment, said that the real question arising out of the argument on behalf of the appellant was whether the child was the child from the effects of whose birth the mother had not recovered when she committed the act for which she had been convicted, and not the question of how many days or weeks had elapsed since the child was born. In his opinion to read s. 1 of the Act in that way was to eliminate the words "newly born." Three co-existent circumstances were essential to the fulfilment of the section, and one of them was that the child should be newly born. It was not the intention of the court to define the expression "newly born child." It was sufficient to say that Talbot, J., made no error in law in holding that there was no evidence on which he could permit the jury to find that a child of more than a calendar month in age was a newly born child within the meaning of the statute. The appeal was dismissed.

COUNSEL: For the appellant, *Mitchell Banks*, K.C. and *S. Seuffert*; for the Crown, *Sir Travers Humphreys*.

SOLICITORS: For the appellant, *Macdonnell & Co.*; *The Director of Public Prosecutions*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

In the Estate of William James Caie, deceased.
In the Estate of Frederick Henry Davis, deceased.

Hill, J. 4th July.

PROBATE—APPLICATION TO OMIT SCANDALOUS AND DEFAMATORY WORDS FROM PROBATE COPY OF WILL—EXERCISE OF THE DISCRETION OF THE COURT.

The court will not order the omission of words from the Probate copy of a will if those words are not defamatory of a named person.

In the estate of William James Caie, deceased. This was a motion on behalf of the widow of William James Caie, late of Highbury House, Bury St. Edmunds, Suffolk, medical practitioner, deceased, to exclude certain clauses from the probate copy of his will. Counsel for the applicant moved for the exclusion of cl. 9, 10, 11 and 12 of the said will on the grounds that they were objectionable and offensive to persons professing the Christian religion, and especially to the widow and children of the deceased; further, that the said clauses were of no testamentary significance; and there was no opposition on the part of anyone else interested under the will. Also the court had a discretion in the matter. Counsel cited *In the Estate of Robert White*, 1914, P. 153, in which were discussed the only other reported cases, and in which the court held that it had a discretion.

Hill, J.: "Is that a ground for omitting them from the Probate? Suppose that a convinced Mahommedan writes in his will, 'I am convinced that every other religion is false,' can I ommit the words? Can I leave out part of a man's will because I do not like it?"

Counsel: "In that case I agree that you could not. But this is a totally different case. Here, in one clause, the testator alleges that the Christian religion is a blasphemy—and the widow and children naturally object. I submit that this clause, at any rate, is scandalous, and the court has power to exclude it from the probate copy."

HILL, J., in his judgment, said: "The case of *Robert White*, *supra*, merely decides that the court has power to omit from the probate copy words which are scandalous and defamatory. In the present case there is nothing of the kind. In the first clause, which I am asked to omit, the testator merely states the age at which he would like his children to choose the Christian body to which they belong. Another clause is merely an exhortation to become a Freemason. In the clauses sought to be omitted the testator expresses certain views on religious subjects, but there is nothing defamatory of any individual. The applicant apparently desires their omission from the probate because the views expressed do not happen exactly to coincide with hers. She appears quite to have misunderstood the law on the subject. The motion will be dismissed."

COUNSEL: *Talbot-Ponsonby*, for the applicant.

SOLICITORS: *Whites & Co.*, for *Greene & Greene*, Bury St. Edmunds.

This was a similar motion to exclude words from the probate copy of the last will of the deceased. Counsel stated that the words complained of were highly defamatory of a living person, who was a well-known and respected resident of Hastings.

HILL, J., on this ground granted the application and allowed the defamatory words to be excluded from the probate copy of the will.

COUNSEL: *Hon. Victor Russell*, for the applicant.

SOLICITORS: *Field, Roscoe & Co.*, for *Chalinder, Herington and Pearch*, Hastings.

[Reported by J. F. COMPTON MILLER, Esq., Barrister-at-Law.]

Societies.

Solicitors' Benevolent Association.

The monthly meeting of the directors of this association was held at The Law Society's Hall, Chancery Lane, London, on the 9th inst., The Rt. Hon. Sir William Bull, Bart., M.P., in the chair. The other directors present being Messrs. F. E. F. Barham, E. E. Bird, E. R. Cook, W. F. Cunliffe, T. S. Curtis, E. F. Dent, E. F. Knapp-Fisher, E. B. Knight, C. G. May, H. A. H. Newington, R. W. Poole, P. J. Skelton (Manchester), F. L. Steward (Wolverhampton), A. B. Urmston (Maidstone), and M. A. Tweedie. The sum of £900 was distributed in grants of relief; seven new members were admitted: Mr. Charles E. Barry (Bristol) and Mr. Walter F. Cunliffe were elected as Chairman and Vice-Chairman, and other general business transacted.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 15th inst. (chairman, Mr. Raymond Oliver), the subject for debate was "That this House considers that the present machinery for providing legal aid to poor persons accused of crime is wholly inadequate and in urgent need of improvement." Mr. Cecil Binney opened in the affirmative, and Mr. A. S. Diamond led in the negative. The following members having spoken, viz., Messrs. Baron G. Thesiger, H. Malone, W. S. Jones, H. Shanly and E. F. Iwi, and the opener having replied, the motion was put to the meeting and carried by three votes. There were twenty-four members and one visitor present.

United Law Society.

A meeting of the Society was held in the Middle Temple Common Room on Monday, the 14th inst., Mr. F. B. Guedalla in the chair. Mr. L. F. Stemp opened—"That this House would welcome the introduction of the new spelling." Mr. G. B. Burke opposed. There also spoke Messrs. Tebbutt, Shanly, Bull, Hughes, Russell, Tookey, Ashley and Godfrey. The opener having replied, the motion was put to the House and carried by two votes.

Gray's Inn.

Friday, 11th November, being the Grand Day of Michaelmas Term, at Gray's Inn, the Treasurer (The Right Hon. Lord Merrivale) and the Masters of the Bench entertained at dinner the following Guests: His Excellency The Brazilian Ambassador, The Right Hon. Viscount Novar, K.T., G.C.M.G., The Right Hon. Viscount Sumner, G.C.B., The Lord Chief Justice of England (The Right Hon. Lord Hewart), The Right Hon. Lord Darling, The Lord Advocate (The Right Hon. William Watson, K.C., M.P.), The Right Hon. Lord Justice Sargant, The Hon. Mr. Justice Avory, The Hon. Mr. Justice Clauson, The Hon. Sir Francis Taylor, K.B.E., K.C., The Common Serjeant (Sir Henry Fielding Dickens, K.C.), Mr. P. G. Mackinnon, The Rev. Canon M. E. Atlay.

The Benchers present in addition to the Treasurer were: Sir Lewis Coward, K.C., The Right Hon. Sir Plunket Barton, Bart., K.C., Mr. Herbert F. Manisty, K.C., The Right Hon. Lord Justice Atkin, Sir Montagu Sharpe, K.C., The Right Hon. Sir Robert Horne, G.B.E., K.C., M.P., Sir Alexander Wood Renton, K.C.M.G., K.C., The Right Hon. Sir Hamar Greenwood, Bart, K.C., M.P., Vice-Chancellor Courthope Wilson, K.C., Sir Walter Greaves-Lord, K.C. M.P., Mr. G. D. Keogh, Mr. Bernard Campion, K.C., Mr. J. W. Ross-Brown, K.C., Mr. James Whitehead, K.C., Mr. Frederick Hinde, Mr. R. Storry Deans, M.P., Mr. A. Andrewes-Uthwatt, Mr. Malcolm Hilbery, with the Chaplain (The Rev. W. R. Matthews, D.D.), and the Under-treasurer (Mr. D. W. Douthwaite).

In Parliament.

Questions to Ministers.

EXPIRING LAWS CONTINUANCE.

On the motion for the second reading of the Expiring Laws Continuance Bill,

Sir E. Hilton Young (Norwich, U.) asked whether the procedure was still in operation by which a Select Committee considered the inclusion of each measure in the Bill.

Mr. A. M. Samuel, Financial Secretary to the Treasury (Farnham), said that the next triennial review would be next year. He thought he could give an assurance that the Government would take the necessary steps well in advance.

The Bill was read a second time.

"The Hire-purchase System Bill," which is intended to amend the law of distress and bankruptcy in its relation to the hire-purchase system, was introduced into the House of Commons on Thursday, the 10th inst., by Mr. Herbert G. Williams, M.P., and is backed by Sir James Agg-Gardner, Sir John Power, Mr. Smedley Crooke and Sir Frank Meyer.

Legal Notes and News.

Honours and Appointments.

Mr. Alasdair Duncan Atholl MacGregor (Attorney-General) has been appointed one of His Majesty's Counsel for the Colony of Trinidad and Tobago.

Mr. A. T. Miller, K.C., has been elected a Bencher of the Middle Temple. Mr. Miller was called to the Bar in 1908 and took silk in 1919.

Sir Benjamin L. Cherry, LL.B., and Mr. James Herbert Stamp have been elected Benchers of the Hon. Society of Lincoln's Inn in place of Mr. William Michael Spence and Mr. John Eustace Harman.

Mr. Philip Ridgeway Bennett, LL.B., Barrister-at-Law, has been appointed Deputy Coroner for Manchester, in succession to the late Mr. Peter Higson. Mr. Bennett was called by the Middle Temple in 1914.

Dr. James N. Laing, Barrister-at-law, has been appointed Assistant Deputy Coroner for Manchester. Dr. Laing was called by the Middle Temple in 1912.

Professional Partnerships Dissolved.

Robert Coventry Denby and Eric John Bairstow, solicitors, Bradford, York (Howe, Denby and Bairstow), by mutual consent. R. C. Denby will carry on the business at 38, Piccadilly, Bradford.

Herbert Booth and Ernest Booth, solicitors, Oldham, Lancaster (H. Booth and Sons), by mutual consent as from 25th October. H. Booth will continue the practice.

MIDDLE TEMPLE MOOT.

A Greyhound Racing Case.

Lord Justice Scrutton presided over the Michaelmas Term Moot held in the Middle Temple Hall on the 10th inst. The facts of the "case," which was argued as on appeal, were as follows:—

X, a company, the owners of a greyhound racing stadium installed therein a special patent electrical hare for dog racing. At the entrance to the stadium they exhibited a notice, signed by their secretary, which, *i.a.*, included the following words:—"This new invention has one supreme merit; it renders impossible the happening of any accident to a dog racing against the hare in this stadium."

Y, who had read this notice in reliance upon it entered his dog (a valuable greyhound) for a race in the company's stadium.

Z, the owner of another greyhound entered for the same race, tampered with the mechanism of the hare before the race, unknown to the company or its servants. The hare, though continuing electrically active, did not attain its proper speed in the race and was seized by Y's greyhound, which received, and was killed by, an electric shock.

Y sued the company for damages for the loss of his dog.

At the trial the judge found the facts above mentioned. He also found that there had been no negligence on the part of the company or its servants, but that in view of the notice above referred to the company was liable for breach of warranty and assessed the damages at £500.

The company appeals.

Mr. H. I. Willis (barrister) and Mrs. Earengey (student) appeared for the appellants; Mr. R. E. Seaton (barrister) and Mr. Gerald Paul (student) for the respondent.

Lord Justice Scrutton, in his judgment, said that he had always thought that it would be a good thing for the English law if the word "warranty" was entirely abolished. Considering all the facts of the case, he came to the conclusion that it was a mistake to say that the statement at the entrance to the stadium was a contract; it was sufficient to say that it was an innocent representation. The appeal must be allowed, and the judgment of the court below set aside.

ADVISORY COMMITTEE ON RIVER POLLUTION.

The Minister of Health and the Minister of Agriculture and Fisheries have appointed a Joint Advisory Committee, with Sir Horace Monro, K.C.B., as Chairman, to consider and from time to time to report on the position with regard to the pollution of rivers and streams and on any legislative administrative or other measures which appear to them to be desirable for reducing such pollution.

The membership of the committee is as follows:—Sir Horace C. Monro, K.C.B. (Chairman), A. R. Atkey, Esq., J.P., Rear-Admiral T. Beamish, C.B., R.N., M.P., Reginald Beddington, Esq., Herbert E. Brooks, Esq., J. T. Conroy, Esq., D.Sc., Stephen Easten, Esq., C. N. Hooper, Esq., F. E. Warbreck Howell, Esq., L. Holme Lewis, Esq., M.I.C.E., M.I.M.E., W. Prescott, Esq., Lieut.-Colonel D. Watts-Morgan, C.B.E., D.S.O., M.P., and H. Maclean Wilson, Esq., M.D., B.Sc.

The Secretaries to the Committee are Mr. G. C. North, M.C., of the Ministry of Health, and Mr. H. Meadows, of the Ministry of Agriculture and Fisheries. All communications should be addressed to Mr. North at the offices of the Ministry of Health, Whitehall, S.W.1.

FINE INSTEAD OF IMPRISONMENT.

A fine of £30, with an order to pay costs, was substituted for a sentence of fourteen days' imprisonment at the London Sessions on the 11th inst., on the appeal of Cecil Raymond Land, twenty-two, a clerk, against the sentence which had been imposed by Mr. Sandbach at the South-Western Police-court for being drunk while in charge of a motor car. Mr. Laurence Vine appeared for Land. In announcing the decision of the Bench, Sir Robert Wallace, K.C. (Chairman), said:—"In this case we think the appellant took a very proper course in not disputing the facts and not doing as so many do in these cases—come into court and commit wilful perjury. I am sure Land feels thoroughly ashamed of himself."

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

COMMITTEE TO CODIFY AND SIMPLIFY INCOME TAX LAW.

It is announced by the Treasury that the Committee to codify the law relating to income tax and to simplify its expression, announced by the Chancellor of the Exchequer in the Budget speech, has been constituted under the chairmanship of Sir Frederick Liddell, K.C.B., First Parliamentary Counsel to the Treasury. The other members of the Committee are Mr. A. M. Bremner, Sir W. M. Graham Howison, K.C.B., Mr. R. P. Hills, Mr. E. M. Konstam, C.B.E., K.C., and Sir John Shaw.

CHRISTMAS VACATION.

The Lord Chancellor announces that the Offices of the Supreme Court will be closed on Saturday, 24th December, and Tuesday, 27th December, 1927.

The Directors of the Alliance Assurance Company Limited, at their meeting on the 16th inst., declared an interim dividend, payable on the 5th January, 1928, of eight shillings per share, less income tax.

The Eighty-sixth Edition of "Burke's Peerage, Baronetage, and Knightage," November, 1928, which marks its 102nd year of publication, will be published about the middle of December next by Burke's Peerage, Ltd., 66, Basinghall-street, E.C.2. Price £5 5s.

HUNGARIAN PROPERTY: SEVENTH DIVIDEND.

The Administrator of Hungarian Property (Cornwall House, Stamford-street, London, S.E.1) announces that a seventh dividend of 2s. in the £ will be paid to all creditors who are entitled to participate. The first distribution of the dividend will be made on the 23rd inst. An individual notice will be sent to each creditor as and when he becomes entitled to participate.

The Property Market.

"Hadley Lodge," one of the most important of the early Georgian houses to be found near that historic spot known as Hadley Woods, was, with the old-world grounds and land adjoining of about nine acres, recently disposed of by Messrs. Hampton & Sons, St. James's Square, at the sale announced in THE SOLICITORS' JOURNAL of the 8th October last. We understand that Messrs. Hamptons now have for sale the adjoining property, "The White Lodge," a smaller residence with a delightful old walled garden.

We should like to call attention to a very desirable and convenient town house—22, Pont-street, S.W.1—which will be offered for sale by Messrs. Hampton & Sons, at The St. James' Estate Rooms, 20, St. James'-square, on Tuesday, the 29th inst., by order of the executors of the late Sir Thomas Skinner, Bart. A Willett-built house, it faces due south, opening on to gardens at the rear, and consists of lounge hall, four reception rooms, ten bed and dressing rooms, with usual offices. Vacant possession may be had upon completion. Further particulars appear in our advertisement columns.

Court Papers.

Supreme Court of Judicature.

Date.	Rota of Registrars in Attendance on Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday Nov. 21	Mr. Hicks Beach	Mr. Ritchie	Mr. Ritchie	Mr. Synge
Tuesday....22	Bloxam	Synge	Synge	Ritchie
Wednesday 23	More	Hicks Beach	Ritchie	Synge
Thursday ..24	Jolly	Bloxam	Synge	Ritchie
Friday 25	Ritchie	More	Ritchie	Synge
Saturday ...26	Synge	Jolly	Synge	Ritchie
	Mr. Justice Astbury.	Mr. Justice Clauson.	Mr. Justice Russell.	Mr. Justice Tomlin.
Monday Nov. 21	Mr. Jolly	Mr. More	Mr. Hicks Beach	Mr. Bloxam
Tuesday....22	More	Jolly	Bloxam	Hicks Beach
Wednesday 23	Jolly	More	Hicks Beach	Bloxam
Thursday ..24	More	Jolly	Bloxam	Hicks Beach
Friday 25	Jolly	More	Hicks Beach	Bloxam
Saturday ...26	More	Jolly	Bloxam	Hicks Beach

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

A UNIVERSAL APPEAL.

To Lawyers: For a Postcard or a Guinea for a Model Form of Bequest to the Hospital for Epilepsy and Paralysis, Maida Vale, W.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 24th November, 1927.

	Middle Price 16th Nov.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	85⅜	4 14 0	—
Consols 2½%	55	4 11 0	—
War Loan 5% 1929-47	100⅞	4 19 0	4 18 9
War Loan 4½% 1925-45	96¼	4 13 6	4 16 6
War Loan 4% (Tax free) 1929-42	100⅝	3 19 0	3 19 6
Funding 4% Loan 1960-90	85¾	4 13 0	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	93¼	4 6 0	4 7 0
Conversion 4½% Loan 1940-44	97⅞	4 13 0	4 16 0
Conversion 3½% Loan 1961	75¼	4 13 6	—
Local Loans 3% Stock 1921 or after	63½	4 15 0	—
Bank Stock	257	4 13 0	—
India 4½% 1950-55	92½	4 17 0	4 18 6
India 3½%	71¼	4 18 6	—
India 3%	61¼	4 18 6	—
Sudan 4½% 1939-73	94½	4 15 0	4 17 0
Sudan 4% 1974	83½	4 16 0	4 18 0
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	80½	3 15 0	4 12 6
Colonial Securities.			
Canada 3% 1938	86	3 11 6	4 18 0
Cape of Good Hope 4% 1916-36	93	4 6 0	5 0 6
Cape of Good Hope 3½% 1929-49	81¼	4 6 0	5 0 0
Commonwealth of Australia 5% 1945-75	100	5 0 0	5 2 6
Gold Coast 4½% 1956	95	4 14 6	4 17 6
Jamaica 4½% 1941-71	92½	4 18 0	4 18 6
Natal 4% 1937	92½	4 6 6	5 0 0
New South Wales 4½% 1935-45	92	4 17 6	5 7 0
New South Wales 5% 1945-65	98	5 2 0	5 3 6
New Zealand 4½% 1945	97	4 12 6	4 17 6
New Zealand 5% 1946	103	4 17 0	4 16 6
Queensland 5% 1940-60	99	5 1 0	5 3 0
South Africa 5% 1945-75	101⅜	4 19 0	4 18 6
S. Australia 5% 1945-75	99¾	5 0 0	5 0 0
Tasmania 5% 1945-75	101	4 19 6	5 0 0
Victoria 5% 1945-75	99½	5 0 6	5 0 0
W. Australia 5% 1945-75	100	5 0 0	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	64	4 13 6	—
Birmingham 5% 1946-56	103¼	4 17 0	4 17 0
Cardiff 5% 1945-65	102¼	4 18 6	4 18 0
Croydon 3% 1940-60	68¼	4 8 6	5 0 0
Hull 3½% 1925-55	78	4 9 6	5 0 0
Liverpool 3½% redeemable at option of Corpn.	74	4 14 6	5 0 0
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	53xd	4 14 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63	4 15 0	—
Manchester 3% on or after 1941	63	4 14 6	—
Metropolitan Water Board 3% 'A' 1963-2003	63	4 14 6	4 17 0
Metropolitan Water Board 3% 'B' 1934-2003	65	4 12 6	4 15 6
Middlesex C. C. 3½% 1927-47	83	4 5 0	4 17 0
Newcastle 3½% Irredeemable	73	4 16 0	—
Nottingham 3% Irredeemable	62⅔	4 16 0	—
Stockton 5% 1946-66	102	4 18 6	4 19 0
Wolverhampton 5% 1946-56	101	4 19 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83¼	4 16 0	—
Gt. Western Rly. 5% Rent Charge	101	4 19 0	—
Gt. Western Rly. 5% Preference	96	5 4 0	—
L. North Eastern Rly. 4% Debenture	79½	5 1 0	—
L. North Eastern Rly. 4% Guaranteed	74½	5 7 0	—
L. North Eastern Rly. 4% 1st Preference	66½	6 0 0	—
L. Mid. & Scot. Rly. 4% Debenture	81¼	4 17 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	79¼	5 1 0	—
L. Mid. & Scot. Rly. 4% Preference	73¼	5 9 0	—
Southern Railway 4% Debenture	81½	4 18 0	—
Southern Railway 5% Guaranteed	98	5 2 0	—
Southern Railway 5% Preference	89	5 12 0	—

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